

Response to Restriction Requirement
Applicants: Jeffrey P. Johnson et al.
Serial Number: 10/612,998

Attorney Docket: CV0285USC2

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REMARKS

Claims 1 to 8 are pending.

The Examiner requires restriction to one of the groups listed as follows:

- I. Claims 1 to 3, drawn to a package, classified in class 206.
- II. Claims 4 to 8, drawn to a method, classified in class 128.

Applicants respectfully traverse this restriction requirement. In response to this restriction requirement, Applicants provisionally elect, with traverse, claims 1 to 3 (Group I), drawn to a package.

The restriction requirement between Groups I and II are improper because the Examiner has not shown that examining the subject matter of Groups I and II would constitute a serious burden. M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Thus for a restriction requirement to be valid, the Examiner must establish the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden (M.P.E.P. § 803). The Examiner has not shown that the second requirement has been met.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the restriction requirement as applied to the subject matter of Groups I and II and request that the subject matter of these groups be examined together.

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Respectfully submitted,

Dated: 8/21/08

By 

Customer No. 009561

Terry L. Wiles (29,989)

Patrick J. O'Connell (33,984)

Popovich, Wiles & O'Connell, P.A.

650 Third Avenue South, Suite 600

Minneapolis, MN 55402

Telephone: (612) 334-8989

Attorneys for Applicants